APPENDIX L

Excerpts of Transcript - Sentence Conference Transcript dated 1/13/97

THE COURT: Hundred Federal judges, probably all the sentencing commissioners, and we discussed the application of the guidelines. And one of the things that was made clear by everyone is that fora proper and correct and fair application of the guidelines all the facts have to be presented, in order for everyone to be treated -- so no matter where you are or who you are, what, your background is, be treated somewhat the same. And the Department of Justice made a representation -- I think the second ranking person in the criminal division -- that the Department of Justice has sent out directives that all information should be available to the Court, that all relevant conduct should be made available, that plea agreements should in no way at all be manipulated or tailored to get a particular result, that the result will have to be where it is based on all the factors. And in going over this report and discussing this issue last week, I don't think that they're in sync. Therefore I think in all fairness to everyone, since you weren't aware that I had serious concerns, I'm going to direct the probation office to give me a full report on all the activities involving this gentleman in California, her involvement, her role, her activities, everything she did because I don't get the drift of that from this report. I want a detailed explanation as to why the plea levels, hardly maybe even two levels. I don't see any reduction at all. Im not suggesting that it should be increased, but this whole activity could never have taken place, in this fraud, without her help. It could never have happened, but for her providing that false information, this could not have happened, this 500 to 800 thousand dollars. That's hardly someone who has an insignificant role or minimal role or a minor role. She was an integral part of this particular fraud based upon the facts in the plea agreement. That's the only analysis that I can determine from reading this report- and from reading the plea agreement. I don't know whether we had a discussion about this

during the plea colloquy or not about the role in the offense.

MR. MISTRETT: As I recall, no, but as Mr. Bruce had indicated and I think wisely, had asked Ms. Werner-Simon to come here because we all know, Judge, those of us who appear in front you, your concerns especially in this area, and he had her fly here from California.

THE COURT: My concerns are only to be fair and -- to properly apply the guidelines consistently with every case that I have.

MR. MISTRETT: I wasn't suggesting otherwise.

THE COURT: I would like to